

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 09/873,468  
Filing Date: June 4, 2001  
Applicant: Buck et al.  
Group Art Unit: 2835  
Examiner: Vortman  
Title: ERGONOMIC CONTROL PANEL FOR A PORTABLE  
ELECTRIC GENERATOR  
Attorney Docket: 0275L-000453

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Director of The United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**APPEAL BRIEF**

Sir:

This is an appeal brief in support of an appeal from the April 3, 2003 Final Rejection of Claims 1-4, 6, 19, 21, 22 and 24-26 and the subsequent Advisory Action mailed July 9, 2003. This appeal brief is being filed in accordance with 37 C.F.R. § 1.192(a), within the two month period allowed from the July 30, 2003 Office date of receipt of the notice of appeal.

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## **REAL PARTY IN INTEREST**

Black & Decker INC., being the assignee of the present application, is the real party in interest.

## **RELATED APPEALS & INTERFERENCES**

To the best of Appellant's knowledge, no other appeals or interferences are pending which will directly affect or be directly affected by or have a bearing on the Board's decision in the present pending appeal.

## **STATUS OF THE CLAIMS**

On July 25, 2003, Appellant appealed from the final rejection of Claims 1-4, 6, 19, 21, 22 and 24-26. Claims 9-18 and 28-35 are allowed. Claims 5, 7, 8, 20, 23 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim(s) and any intervening claims. The rewriting of conditionally allowed Claims 5, 7, 8, 20, 23 and 27 is deferred pending the outcome of this appeal.

## **STATUS OF AMENDMENTS**

No amendment to the claims has been filed or is pending subsequent to the entry of the final rejection.

## SUMMARY OF THE INVENTION

The following summarizes Applicants' specification, paragraphs [0005] and [0015] through [0021], and refers to Applicants' Figures 1-3.

The present invention relates to a control panel for a portable electric generator. The control panel is segmented into a plurality of distinct regions or "zones", each zone having logically related and organized components to minimize the possibility of an operator accidentally selecting the wrong control or mistakenly trying to engage the plug of a power extension cord with an improper electrical outlet of the generator.

In the examples of Figures 1, 2 and 3, a control panel 10 having the features of Appellant's invention is associated with a generator 12 having a frame 14 which supports an internal combustion engine 16. The control panel 10 includes a plurality of switches and electrical receptacles, and is divided into a plurality of distinct regions or "zones" 18, 20 and 22.

The frame 14 further includes tubular frame members 14a, 14b and 14c which are disposed generally parallel to one another, and which further help to demarcate the three distinct zones 18, 20 and 22 of control panel 10. Each zone 18, 20 and 22 includes a horizontally laid out, generally rectangular area, and each of the zones are arranged parallel to one another. The uppermost zone 18 includes an ON/OFF engine switch 24 at one longitudinal end of the zone 18 and a main circuit breaker switch 26 at the opposite longitudinal end of the zone. The switches 24 and 26 are further separated by an indicia member or area 28 in which a company name or other indicia identifying the manufacturer of the generator 12 may be included. The first zone 18 of the control panel 10 is further formed so as to be inclined slightly, relative to the other zones 20 and

22, to present slightly easier access to the switches 24 and 26. Rocker style switches are shown for switches 24 and 26, but virtually any other form of switch can be incorporated.

The second zone 20 is also configured as an elongated, rectangular region. The second zone 20 includes a plurality of electrical receptacles or outlets 30, 32, 34 and 36 arranged within a first sub-region 20a. Outlets 30 and 36 are conventional twist lock receptacles for use with mating male twist lock electrical plugs. Outlets 30 and 36 preferably are capable of supplying 20 to 30 amps of current. Electrical outlets 32 and 34 are ground fault interrupter (GFI) electrical outlets which each supply 120VAC and preferably are capable of supplying up to 20 amps of current or more.

Thermal circuit breakers 38, 40, 42 and 44 are each associated with a respective one of the outlets 30-36. Advantageously, each thermal breaker 38-44 is disposed closely adjacent the electrical receptacle 30-36 with which it is associated. Thus, thermal breaker 38 is associated with outlet 30, thermal breaker 40 is associated with outlet 32, thermal breaker 42 is associated with outlet 34, and thermal breaker 44 is associated with outlet 36.

A voltage selector switch 46 is disposed within a second sub-region 20b of second zone 20 while a 120/240VAC electrical outlet 48 is disposed within a third sub-region 20c of second zone 20. The voltage selector switch 46 includes a rocker style switch which is laid out horizontally. Indicia 46a to the left of switch 46 indicates to the user that depressing the left side of the switch selects the outlets 30-36 for maximum 120VAC power. Pressing the right side of switch 46 selects outlet 48 for 240VAC operation. The placement of the switch 46 in between the group of outlets 30-36 and

outlet 48, along with its horizontal positioning, helps to ensure that the operator realizes which electrical receptacles are being selected for use. By requiring the operator to push the left side of the switch 46 if one or more of the electrical outlets 30-36 are to be used, or to depress the right side of the switch 46 if outlet 48 is to be used, there is a further degree of logical control introduced into the selection of which outlets 30-36 and 48 the operator is selecting for use. This added logical control helps to ensure that the operator will not inadvertently select the wrong outlet, via switch 46, for use in a given application.

The 120/240VAC electrical outlet 48 is disposed at the longitudinally opposite end of the zone 20b from the 120VAC electrical outlets 30-36. This further helps to reduce the possibility that the operator may inadvertently attempt to plug a 120VAC electrical plug into the 120/240VAC outlet 48.

The third zone 22 includes an "Idle Control" on/off switch 52. This switch is typically used less frequently than switches 24, 26 or 46, and is therefore disposed at the lowermost area of the control panel 10. Switches 24 and 26, being much more commonly used, are disposed in the first zone 18. The auto throttle on/off switch 52 is used to choose whether or not the gas engine 16 will run at one constant speed, or throttle up and throttle down automatically depending on current draw on the generator 12.

## **ISSUES**

Appellant presents the following issues for review:

Whether Claims 1-4, 6, 19, 21, 22 and 24-26 are unpatentable under 35 U.S.C. §103(a) as being obvious over Appellant's disclosed Prior Art device in view of U.S. patent 4,721,070 to Tanaka et al.

Whether Claims 1-4, 6, 19, 21, 22 and 24-26 are unpatentable under 35 U.S.C. §103(a) as being obvious over Appellant's disclosed Prior Art device.

## **GROUPING OF THE CLAIMS**

Claims 1-4, 6, 19, 21, 22 and 24-26 stand or fall together.

## **BACKGROUND OF THE INVENTION**

Portable electric generators are used in a wide variety of applications. Such applications include use at construction sites for powering various electric power tools such as drills, saws, lights, electric heaters, etc., as well as in residential applications for providing a back-up source of electric power in the event of a power outage. Such portable electric generators typically have a control panel with a plurality of electrical outlets and switches for selecting certain outlets thereof for use. For example, generators which provide either 120VAC or 240VAC use a switch by which the user selects either 120VAC or 240VAC operation. Circuit breakers are also often included at various locations on the control panel.

Typically, the above-described outlets, breakers and switches are not logically organized on the generator control panel. This can lead to considerable confusion on

the part of the user in the event the user is in a hurry to plug a power cord into one of the outlets of the generator or if lighting conditions are not acceptable, leading to difficulty in the operator seeing the switches, outlets or breakers that the user needs to access.

## **THE EXAMINER'S RATIONALE**

The Examiner provided two rationales in rejecting Claims 1-4, 6, 19, 21, 22 and 24-26 as stated in his final rejection (a copy of the Office Action mailed April 3, 2003, placing the present application under final rejection is provided in attached Appendix D).

First, it would have been obvious to logically organize the control elements of Appellant's disclosed Prior Art device into different zones as taught by U.S. patent 4,721,070 to Tanaka et al.

Second, it would have been obvious to logically organize control elements of Appellant's disclosed Prior Art device into different zones, since what is involved would have been a mere rearranging of the control elements of the Prior Art device. It has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 U.S.P.Q. 70.

## **ARGUMENTS**

Appellant initially notes that the '070 patent to Tanaka et al. appears to disclose a portable engine operated electric generator. A control panel 8 is connected to a frame member 2, which includes a base board 8a which faces lateral to the frame member 2. AC/DC outlets 8c and AC/DC output terminals 8d are mounted on the base board 8a. A

side board 8b extends approximately at a right angle from an upper portion of the base board 8a. Frequency and output voltage indicators 8e and switches 8f are supported by the side board 8b. In summary, the '070 patent to Tanaka et al. appears to teach a control panel mounted from a portable engine operated electric generator that provides AC/DC outlets and output terminals on one surface and separately provides frequency and output voltage indicators as well as switches for control of the generator on a second surface.

Appellant also initially notes that Appellant's specification, in paragraph [0002], discloses in part "Such portable electric generators typically have a control panel with a plurality of electrical outlets and switches for selecting certain outlets thereof for use. For example, generators which provide either 120VAC or 240VAC use a switch by which the user selects either 120VAC or 240VAC operation." The Examiner noted in the Final Office Action mailed April 3, 2003 and again in the Advisory Action mailed July 9, 2003, that Appellant "concentrated the arguments exclusively around the Tanaka et al. ('070) reference and did not take in[to the] account that Applicants' disclosed Prior Art has been used as a primary reference in the rejection of Claims 1-4, 6, 19, 21, 22 and 24-26." During prosecution, Appellant did not contest, and at this time does not contest, the disclosure of switches and outlets positionable on a control panel of a portable electric generator as Prior Art. It is well known in the art of portable electric generators to use a control panel having switches and outlets positionable thereon.

In contrast to both Appellant's admitted Prior Art and the '070 patent to Tanaka et al., however, Appellant's invention divides a control panel for a portable electric generator into at least first and second zones having first and second electrical outlets,



capable of providing first and second voltage outputs, respectively, positioned at longitudinally opposed first and second ends of the second zone. A switch is located between the first and second electrical outlets which is used to select between the first and second electrical outlets. Additional switches and breakers which have greater or lesser frequency of use are positioned on various ones of the three zones. It is a principal advantage of the control panel of Appellant's invention that the control panel has first and second electrical outlets disposed at opposite ends of a single given zone. Specifically, positioning the switch between the first and second electrical outlets reduces the likelihood of an operator inadvertently selecting the wrong outlet for use.

THE EXAMINER HAS FAILED TO ESTABLISH A *PRIMA FACIE* CASE OF  
OBVIOUSNESS

It is well settled that "a *prima facie* case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art". *In re Rinehart*, 531 F.2d 1048, 1049 (U.S. Ct. of Customs and Patent Appeals, 1976). The U.S. Supreme Court has identified three primary criteria for establishing obviousness. These are: 1) determination of the scope and content of the prior art; 2) determination of the differences between the prior art and the claims at issue; and 3) determination of the level of ordinary skill in the pertinent art. *Graham v. John Deere*, 383 U.S. 1, 17 (1966). In rejecting claims under 35 U.S.C. §103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. See *In re Fine*, 837 F.2d 1071, 1073, (Fed. Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set

forth as noted above in *Graham v. John Deere*, and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention.

In the case *In re Vaeck*, the Federal Circuit noted that two criteria must be met for *prima facie* obviousness to exist: 1) there must be some suggestion or motivation in the references or generally available knowledge to a person of skill in the arts to modify or combine the references; and 2) there must be a reasonable expectation of success. Both the motivation and the reasonable expectation of success must be found in the prior art and not in the Applicant's disclosure. 947 F.2d 488, 493 (Fed. Cir. 1991). See also *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051 (Fed. Cir.) cert. denied, 488 U.S. 825 (1985). These showings by the Examiner are an essential part of complying with the burden of presenting a *prima facie* case of obviousness. Note, *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

It is respectfully submitted that the Examiner has failed to fully determine the scope and content of the prior art and to correctly determine the differences between the prior art and the claims at issue in both rationales used to reject Claims 1-4, 6, 19, 21, 22 and 24-26. It is also respectfully submitted that the Examiner has not met the burden of providing any reason a person having ordinary skill in the art would have been led to modify the prior art or to combine the prior art references to arrive at the claimed invention. The Examiner has therefore failed to establish a *prima facie* case of obviousness.

### EXAMINER'S FIRST RATIONALE

It is respectfully submitted that the Examiner's first rationale, that it would have been obvious to logically organize the control elements of Appellant's disclosed Prior Art device into different zones as taught by U.S. patent 4,721,070 to Tanaka, fails for several reasons.

### TANAKA ET AL. DOES NOT SUPPLY THE MISSING FEATURES IN APPELLANT'S ADMITTED PRIOR ART

The control panel disclosed in Tanaka et al. does not show or suggest the control panel set forth in Claim 1 of the present invention. Claim 1 calls for a first electrical outlet which is disposed adjacent a first longitudinal end of the second zone, and a second electrical outlet disposed adjacent a second longitudinal end of the second zone, and a voltage selector switch disposed longitudinally inbetween said first and second electrical outlets for allowing the user to select either the first outlet or the second outlet for use. Tanaka et al. does not disclose or suggest any such structure. In Tanaka, the two AC outlets 8c are positioned immediately adjacent one another with no form of selector disposed longitudinally in between these two outlets. In fact, no selector switch whatsoever is disposed in between the AC/DC outputs 8d, or in between the outputs 8d and outlets 8c. Furthermore, the function of switches 8f is not given in the specification. Presumably, however, this switch has nothing to do with being able to select one or the other of the outlets because the outlets 8c are not described as providing different voltage outputs.

Modifying Appellant's Prior Art device (identified as noted herein as known parts mounted on a control panel) with Tanaka et al. cannot render Claim 1 obvious. Rejected claims 2-4 and 6 depend directly from Claim 1 and are therefore not obvious. Claim 19 specifically sets forth the two electrical outlets disposed adjacent opposite longitudinal ends of the second zone, and the switch being disposed in between the two electrical outlets. This structure is not suggested by Tanaka et al. Modifying Appellant's Prior Art with Tanaka et al. cannot render Claim 19 obvious. Rejected Claims 21, 22 and 24-26 depend directly from Claim 19 and are therefore not obvious.

THE EXAMINER HAS IMPERMISSIBLY SELECTED ONLY SELECTED  
PORTIONS OF THE REFERENCED ART

In *Bausch & Lomb v. Barnes-Hind/Hydrocurve, Inc.*, the Federal Circuit stated:

“It is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art.” 796 F2d 443, 448 (Fed. Cir. 1986).

By relying on the Tanaka et al. reference only for the limitation of a control panel having different zones, the Examiner has impermissibly ignored what Tanaka et al. '070, as a whole teaches, and what Tanaka et al. '070 does not teach or suggest. At best, Tanaka et al. merely discloses the positioning of control switches on a first panel face and positioning of electrical outlets on a second panel face. The second panel face is positioned at approximately a right angle to the first panel face and therefore separates

control switches from electrical outlets in an illogical fashion. Tanaka et al. therefore teaches a component arrangement similar to that disclosed by Appellant's admitted Prior Art; that is, a grouping of components that suffers from the same illogical component arrangement problems solved by Appellant's invention. Tanaka et al., therefore does not teach or suggest Appellant's claimed invention. One skilled in the art would not be motivated to modify Appellant's Prior Art device with Tanaka et al. '070 to render Appellant's invention.

THE EXAMINER HAS FAILED TO SHOW ANY MOTIVATION/SUGGESTION IN THE  
TANAKA ET AL. REFERENCE AND/OR APPELLANT'S ADMITTED PRIOR ART TO  
SUPPORT AN OBVIOUSNESS REJECTION

In the Tanaka et al. reference, as noted above, there is no discussion whatsoever as to the function of switch 8f, let alone that the switch 8f is being used to select one or the other of the outputs 8d or outlets 8c. The switch 8f is not even located on the same side of the outer panel. Importantly, there is further no suggestion that the electrical outlets 8c and 8d provide different output voltages, let alone that the switch is (or could be) used to select one or the other of the outlets. As further evidence of a lack of motivation/suggestion, the outlets 8c and 8d of Tanaka et al., in direct contrast to Appellant's invention, are adjacently and vertically arranged, rather than longitudinally spaced. Because nothing in Appellant's admitted Prior Art would suggest placing the first and second outlets at different longitudinal ends of a single zone, Appellant's own teaching must be used in combination with Tanaka et al. to even arrive at the limitation of longitudinally separated outlets positioned at ends of a control panel zone.

Absent even a teaching that the outputs 8d and outlets 8c provide different voltages, it cannot possibly be said that one of ordinary skill in the art would have been motivated to separate the outlets/outputs at different longitudinal ends of the same control panel zone, and to then longitudinally locate a switch between them for controlling which outlet/output is used. As evident from these shortcomings, Tanaka et al. provides absolutely nothing that would suggest to one of ordinary skill in the art the desirability of forming a control panel having features (restated from the claims) of:

*a first electrical outlet providing a first output voltage provided at a first longitudinal end of a zone of the control panel;*

*a second electrical outlet providing a second output voltage different from the first output voltage provided at a second longitudinal end of the zone; and*

*a voltage selector switch is provided that is disposed longitudinally in between the first and second electrical outlets for allowing a user to logically select one or the other of the electrical outlets for use.*

It is submitted that the desirability and motivation to construct the control panel as claimed in the present application only becomes apparent after reviewing Appellant's own application. The reference cited by the Examiner, and Appellant's admitted Prior Art device, together or singly, completely fail to suggest any motivation or desirability for combining them in the manner in which the Examiner has done so, unless one considers the teachings in the "Summary" and "Detailed Description" portions of Appellant's application. It is well known that Appellant's own disclosure cannot be used as a "roadmap" to pick and choose isolated features from different references, in an effort to deprecate, or, in the present case, create the claimed invention, without something in the references themselves that clearly suggest the motivation and/or

desirability of making the combination. See *Ecolochem, Inc. v. S. California Edison Co.*, 227 F.3d 1361, 1371 (Fed. Cir. 2000); See also *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

#### EXAMINER'S SECOND RATIONALE

It is respectfully submitted that the Examiner's second rationale, that it would have been obvious to logically organize control elements of Appellant's disclosed Prior Art device into different zones, since what is involved would have been a mere rearranging of the control elements of the Prior Art device, also fails for several reasons.

#### THE EXAMINER HAS FAILED TO SHOW ANY MOTIVATION/SUGGESTION IN APPELLANT'S ADMITTED PRIOR ART TO SUPPORT AN OBVIOUSNESS REJECTION

The Examiner has failed to show any motivation or suggestion, using only Appellant's admitted Prior Art, that would reasonably lead or suggest to one of ordinary skill in this art the desirability of grouping the electrical outlets and the selector switch into zones, as claimed in the present application. As noted above, it is well known a prior art reference must itself suggest the desirability or motivation to make the combination. *In re Vaeck* at 493. This requirement prevents that which is taught by the inventor from being used against the inventor. See *In re Dembiczak*, 175 F.3d 994 (Fed. Cir. 1999).

As noted herein, Appellant's admitted Prior Art includes only the admission that portable electric generators typically have a control panel with a plurality of electrical outlets and switches for selecting certain outlets thereof for use, for example, generators providing either 120VAC or 240VAC using a switch by which the user

selects either 120VAC or 240VAC operation. Nowhere in Appellant's admitted Prior Art is there a suggestion or motivation to provide outlets or switches on a control panel in different zones.

It is submitted that the desirability and motivation to construct the control panel as claimed in the present application, including the use of separate zones, only becomes apparent after reviewing Appellant's own application. Appellant's admitted Prior Art device completely fails to suggest any motivation or desirability for combining the admitted Prior Art with a control panel arranged in zones in the manner in which the Examiner has done so, unless one considers the teachings in the "Summary" and "Detailed Description" portions of Appellant's application. Appellant's own disclosure cannot be used as a "roadmap" to pick and choose isolated features from different references, in an effort to deprecate, or, in the present case, create the claimed invention, without something in the references themselves that clearly suggest the motivation and/or desirability of making the combination. *Ecolochem* at 1371.

#### THERE IS NO LEGALLY RECOGNIZED 'GIST' OF AN INVENTION

In *W.L. Gore & Associates, Inc. v. Garlock*, the Federal Circuit stated "In determining obviousness, there is no legally recognizable or protected 'essential', 'gist' or 'heart' of the invention." 721 F2d 1540, 1548 (Fed. Cir. 1983). By summarizing the invention as a "mere rearranging of the control elements of the Prior Art device", the Examiner has improperly limited the invention to its 'gist' and has not considered the invention as a whole. In its most simplified main configuration, or 'gist', Appellant's invention does arrange control panel elements known in the art into zones, however, the



claimed control panel of Appellant, as a whole, includes limitations not taught or suggested by merely rearranging the known control panel elements into zones. These limitations include a control panel having first and second electrical outlets disposed at opposite ends of a selected control panel zone. The first and second electrical outlets have first and second voltage outputs which differ from one another. A switch for selecting between the first and second electrical outlets is positioned between the first and second outlets to select one of the different voltages. These limitations, considered as a whole, are not taught or suggested by the Appellant's Prior Art device.

Appellant's invention solves the problem inherent in both Appellant's admitted Prior Art and the '070 patent to Tanaka, that prior control panels are not logically arranged to reduce the likelihood that an operator can inadvertently plug a power cord into an incorrect outlet, or inadvertently selecting the wrong outlet via the control switch.

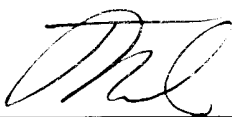
## CONCLUSION

Appellant respectfully submits that Appellant's admitted Prior Art, with or without the teachings of Tanaka et al., does not teach, let alone suggest, the Appellant's invention as presently claimed. The Examiner has therefore not presented a *prima facie* case of obviousness. To the contrary, the Examiner has used the Appellant's own disclosure to provide the suggestion and motivation to combine the Tanaka et al. reference with Appellant's admitted Prior Art in forming the rejection under 35 U.S.C. §103.

Appellant's invention provides a novel and non-obvious control panel for a portable electric generator having an output selector switch disposed between longitudinally spaced apart first and second electrical outlets. The electrical outlets are positioned at or adjacent opposed ends of a specified zone of the control panel. The switch is operable to select between the opposed electrical outlets having differing electrical voltage outputs. These limitations are neither taught nor suggested by the art of record. Accordingly, reversal of the final rejection of Claims 1-4, 6, 19, 21, 22 and 24-26 is respectfully requested.

Respectfully submitted,

Dated: SEPTEMBER 26, 2003

By:   
Mark D. Elchuk, Reg. No. 33,686  
Thomas J. Krul, Reg. No. 46,842

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600



**APPENDIX FOR APPEAL BRIEF**

- A. Copy of Claims
- B. Copy of U.S. Patent No. 4,721,070
- C. Copy of Advisory Action
- D. Copy of Final Office Action



## CLAIMS

What is claimed is:

1. A control panel for a portable electric generator, comprising:
  - a first zone including at least an ON/OFF switch for the generator;
  - a second zone disposed adjacent said first zone, said second zone including:
    - a first electrical outlet disposed adjacent a first longitudinal end of said second zone;
    - and a second electrical outlet disposed adjacent a second longitudinal end of said second zone opposite to said first longitudinal end;
  - said first electrical outlet providing a first voltage output and said second electrical outlet providing a second voltage output which differs from said first voltage output; and
  - a voltage selector switch disposed longitudinally in-between said first and second electrical outlets for allowing a user to select either said first outlet or said second outlet for use.
2. The control panel of claim 1, further comprising a third zone disposed adjacent said second zone and including a throttle control.
3. The control panel of claim 1, wherein each of said first and second zones comprise rectangular zones orientated horizontally and parallel to one another.

4. The control panel of claim 1, wherein said ON/OFF switch is disposed at a first longitudinal end of said first zone; and

wherein said first zone further comprises a circuit breaker disposed at a second longitudinal end of said first zone opposite to said first longitudinal end.

5. The control panel of claim 4, wherein said ON/OFF switch and said circuit breaker are separated by an indicia panel disposed at a longitudinally central position of said first zone.

6. The control panel of claim 1, wherein:

said first electrical outlet is disposed within a first subzone of said second zone, and wherein said first subzone includes a plurality of first electrical outlets disposed in side-by-side relationship with one another;

said second electrical outlet is disposed within a second subzone of said second zone; and

said voltage selector switch is disposed within a third subzone of said second zone generally horizontally in between said first subzone and said second subzone.

7. The control panel of claim 1, wherein said first and second zones are demarcated by a plurality of generally parallel extending frame members of a frame of said generator.

8. The control panel of claim 1, wherein said first zone is inclined relative to said second zone to thereby place said ON/OFF switch at an angle which is easier for a user to access.

9. A control panel for a portable electric generator having a frame, comprising:

- a horizontally extending, rectangular first zone including at least one switch for controlling the generator;
- a horizontally extending, rectangular second zone disposed vertically adjacent said first zone, said second zone including:
  - a first electrical outlet disposed adjacent a first longitudinal end of said second zone;
  - and a second electrical outlet disposed adjacent a second longitudinal end of said second zone opposite to said first longitudinal end;
  - said first electrical outlet providing a first voltage output and said second electrical outlet providing a second voltage output which differs from said first voltage output; and
- wherein said first and second zones are further demarcated by at least one longitudinally extending frame member of said frame of said generator.

10. The control panel of claim 9, wherein said switch comprises an ON/OFF switch.

11. The control panel of claim 9, further comprising a voltage selector switch disposed within said second zone longitudinally inbetween said first and second electrical outlets for allowing a user to select either said first electrical outlet or said second electrical outlet for use.

12. The control panel of claim 9, wherein said voltage selector switch comprises a horizontally disposed rocker style switch.

13. The control panel of claim 10, wherein said ON/OFF switch is disposed adjacent a first longitudinal end of said first zone; and

further comprising a circuit breaker switch disposed adjacent a second longitudinal end of said first zone opposite to said first longitudinal end.

14. The control panel of claim 13, further comprising an indicia panel disposed inbetween said ON/OFF switch and said circuit breaker switch within said first zone.

15. The control panel of claim 9, further comprising a rectangular third zone disposed adjacent and parallel to said second zone, said third zone including a control for controlling an engine of said generator.

16. The control panel of claim 13, wherein said ON/OFF switch and said circuit breaker switch both comprise vertically oriented rocker style switches.

17. The control panel of claim 15, wherein said first, second and third zones are demarcated by a plurality of parallel disposed frame members of said frame of said generator.



18. The control panel of claim 9, wherein said second zone further comprises a plurality of thermal breakers each associated with a respective one of said electrical outlets and each disposed closely adjacent its respective said electrical outlet.

19. A control panel for a portable electric generator, comprising:

a horizontally extending, rectangular first zone including at least an ON/OFF switch for the generator and a circuit breaker disposed at opposite longitudinal ends of said first zone;

a horizontally extending, rectangular second zone disposed vertically adjacent said first zone, said second zone including:

a first electrical outlet disposed adjacent a first longitudinal end of said second zone; and

a second electrical outlet disposed adjacent a second longitudinal end of said second zone opposite to said first longitudinal end;

said first electrical outlet providing a first voltage output and said second electrical outlet providing a second voltage output which differs from said first voltage output; and

a switch disposed inbetween said first and second electrical outlets within said second zone for selecting for use one or the other of said first and second electrical outlets.

20. The control panel of claim 19, wherein said first and second zones are demarcated by a plurality of generally parallel extending frame members of a frame of said generator.

21. The control panel of claim 19, wherein said switch comprises a horizontally orientated rocker style switch.

22. The control panel of claim 19, further comprising a third zone disposed horizontally and adjacent to said second zone; said third zone including a control for controlling an engine of said generator.

23. The control panel of claim 19, further comprising a plurality of thermal breakers disposed adjacent respective ones of said electrical outlets and each being operably associated with respective ones of said respective electrical outlets.

24. The control panel of claim 19, wherein said first outlet is disposed within a first subzone of said second zone and said second electrical outlet is disposed within a second subzone of said second zone; and

wherein said first subzone includes a plurality of electrical outlets disposed in a generally horizontally extending arrangement.

25. The control panel of claim 19, wherein said ON/OFF switch comprises a vertically orientated rocker style switch.

26. The control panel of claim 19, wherein said circuit breaker switch comprises a vertically orientated rocker style switch.

27. The control panel of claim 19, wherein said ON/OFF switch and said circuit breaker switch are separated by an indicia panel.

28. A control panel for a portable electric generator, comprising:

a horizontally extending, rectangular first zone including at least a first switch and a second switch disposed at opposite longitudinal ends of said first zone;

a horizontally extending, rectangular second zone disposed vertically adjacent said first zone, said second zone including:

a first electrical outlet disposed adjacent a first longitudinal end of said second zone;

and a second electrical outlet disposed adjacent a second longitudinal end of said second zone opposite to said first longitudinal end;

said first electrical outlet providing a first voltage output and said second electrical outlet providing a second voltage output which differs from said first voltage output;

a third switch disposed inbetween said first and second electrical outlets within said second zone for selecting for use one or the other of said first and second electrical outlets; and

at least one frame member of a frame of said generator for demarcating at least one of said first and second zones.

29. The control panel of claim 28, further comprising a plurality of frame members for demarcating said first and second zones.

30. The control panel of claim 28, wherein said third switch comprises a horizontally orientated rocker style switch.

31. The control panel of claim 28, wherein said first switch comprises an ON/OFF switch

32. The control panel of claim 28, wherein said second switch comprises a circuit breaker switch.

33. The control panel of claim 28, further comprising a third zone disposed adjacent said second zone and including a fourth switch for controlling said generator.

34. The control panel of claim 28, further comprising a plurality of thermal breakers each associated with a respective one of said electrical outlets.

35. A control panel for a portable electric generator, comprising:  
a zone including:  
a first AC outlet at a first longitudinal end of the zone for providing a first AC output voltage;  
a second AC outlet at a second longitudinal end of the zone for providing a second AC output voltage;  
a switch disposed longitudinally between said first and second AC outlets, within said zone, for selecting one or the other of said AC outlets for use.



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,468	06/04/2001	John E. Buck	0275L-000453	3892

27572 7590 07/09/2003

HARNES, DICKEY & PIERCE, P.L.C.  
P.O. BOX 828  
BLOOMFIELD HILLS, MI 48303

EXAMINER

VORTMAN, ANATOLY

ART UNIT

PAPER NUMBER

2835

DATE MAILED: 07/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

0275L-000453

**Advisory Action**



Application No.

09/873,468

Examiner

Anatoly Vortman

Applicant(s)

BUCK ET AL.

Art Unit

2835

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 June 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 9-18 and 28-35.

Claim(s) objected to: 5, 7, 8, 20, 23 and 27.

Claim(s) rejected: 1-4, 6, 19, 21, 22 and 24-26.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6.
10. ☐ Other: \_\_\_\_\_

*A. Vortman*

Anatoly Vortman  
Primary Examiner  
Art Unit: 2835

Part of Paper No. 8



Continuation of 5. does NOT place the application in condition for allowance because:

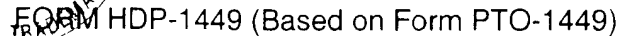
Applicant's arguments are not persuasive. The Applicant has concentrated the arguments exclusively around the Tonaka ('070) reference and did not take into account that Applicant's disclosed "Prior Art" has been used as a primary reference in the rejection of claims 1-4, 6, 19, 21, 22, and 24-26.

Also, contrary to the Applicant's assertion that the Examiner had combined references "using teachings of applicant's own invention" (p.3, lines 18+ of the response), the Examiner would like to reiterate that ONLY Applicant's Admitted Prior Art from the "Background" section of the disclosure has been used in the rejection.

In conclusion, the Applicant did not address the alternative rejection of the claims in view of In re Japikse, 86 USPQ 70 (p. 3 of the Office Action).

A. Voller —  
07/03/03

ANATOLY VORTMAN  
PRIMARY EXAMINER



(Use several sheets if necessary)

Sheet 1 of 1

ATTORNEY DOCKET NO.

SERIAL NO.

0275L-000453

09/873,468

APPLICANT

John E. Buck et al.

FILING DATE

GROUP

June 4, 2001

2835

## U.S. PATENT DOCUMENTS

Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
1.	<i>[Handwritten Signature]</i>	2,898,542	08/04/1959	G. J. Wasko et al.	<u>          </u>	

## FOREIGN PATENT DOCUMENTS

Ref. Desig.	Examiner's Initials	Document Number	Date	Country	Class/ Subclass	Translation	
						Yes	No
1.							

**OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, etc.)**

Ref. Desig.	Examiner's Initials	
1.		

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Examiner:

Date Considered:

EXAMINER: Please initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,468	06/04/2001	John E. Buck	0275L-000453	3892

27572 7590 04/03/2003  
HARNESSE, DICKEY & PIERCE, P.L.C.  
P.O. BOX 828  
BLOOMFIELD HILLS, MI 48303



EXAMINER
----------

VORTMAN, ANATOLY

ART UNIT	PAPER NUMBER
----------	--------------

2835

DATE MAILED: 04/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

0275 L-000453

VCM13

Final OIA  
Due 7-3 03

## Office Action Summary

Application No. ✓ 32

09/873,468

Applicant(s)

BUCK ET AL.

Examiner

Anatoly Vortman

Art Unit

2835

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on 24 February 2003.

2a) ☒ This action is **FINAL**.

2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-35 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☒ Claim(s) 9-18 and 28-34 is/are allowed.

6) ☒ Claim(s) 1-4, 6, 19, 21, 22 and 24-26 is/are rejected.

7) ☒ Claim(s) 5, 7, 8, 20, 23 and 27 is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

11) ☒ The proposed drawing correction filed on 30 May 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.

4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6, 19, 21, 22, 24-26, and 35, are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's disclosed Prior Art in view of US/4,721,070 to Tanaka et al., (Tanaka).

Regarding claims 1-4, 6, 19, 21, 22, 24-26, and 35, the Applicant disclosed that generators having control panels including all of the control elements as claimed in the instant application have been known in the art at the time the invention was made (page 1, paragraphs [0002] and [0003] of the instant application), but did not disclose that said control elements have been logically organized into separate control zones.

Tanaka disclosed a portable generator (Fig. 4) having control panel comprising at least two logically organized separate zones (one at the front end of the generator frame and another one on the side of the frame).

Since the Applicant's disclosed Prior Art device and the device of Tanaka are from the same field of endeavor (portable electrical generators) the purpose of the control panel having

Art Unit: 2835

logically organized control elements grouped into different zones taught by Tanaka would be recognized in the Applicant's disclosed Prior Art device.

It would have been obvious to a person of ordinary skill in the control art at the time the invention was made to logically organize the control elements of the Applicant's disclosed Prior Art device into different zones as taught by Tanaka in order to facilitate the control functions of the device.

Alternatively, it would have been obvious to a person of ordinary skill in the control art at the time the invention was made to logically organize control elements of the Applicant's disclosed Prior Art device into different zones, since such a modification would have involved a mere rearranging of the control elements of the Prior Art device. It has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

***Allowable Subject Matter***

3. Claims 9-18 and 28-34 are allowed.
4. Claims 5, 7, 8, 20, 23, and 27, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. The following is a statement of reasons for the indication of allowable subject matter:

Art Unit: 2835

regarding claims 9-18 and 28-34, independent claims 9 and 28 recite the limitation "frame member". The aforementioned limitation in combination with remaining limitations of independent claims 9 and 28 is believed to render said independent claims 9 and 28 and subsequently dependent claims 10-18 and 29-34 patentable over the art of record.

Regarding claims 5, 7, 8, 20, 23, and 27, claims 5 and 27 recite "an indicia panel", claims 7 and 20 recite "frame members", claim 8 recites "first zone is inclined", and claim 23 recites "thermal breakers". The aforementioned limitations in combination with remaining limitations of the claims are believed to render the subject matter of claims 5, 7, 8, 20, 23, and 27 patentable over the art of record.

#### *Response to Arguments*

6. Applicant's arguments presented in the amendment filed on 02/24/03 (paper # 3) are not persuasive.

The Examiner believes that Applicant's statement presented on p. 4, lines 7 and 8 of the amendment that "in view of the amendments made to independent claims 1 and 19, it is believed that the rejection of these dependent claims has been rendered moot..." is incorrect, since no amendments to the aforementioned claims 1 and 19 have been made.

Also, the Applicant has concentrated the arguments exclusively around the Tonaka ('070) reference and did not take in the account that Applicant's disclosed Prior Art has been used as a primary reference in the rejection of claims 1-4, 6, 19, 21, 22, and 24-26.

In conclusion, the Applicant did not address the alternative rejection of the claims in view of *In re Japikse*, 86 USPQ 70 (p. 3 of the Office Action).

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anatoly Vortman whose telephone number is 703-308-7824. The examiner can normally be reached on 9:30-6:00, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Darren Schuberg can be reached on 703-308-4815. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3431 for regular communications and 703-305-3432 for After Final communications.



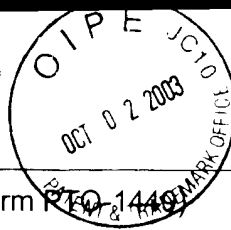
Art Unit: 2835

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

Anatoly Vortman  
Primary Examiner  
Art Unit 2835

A.V.  
March 20, 2003

A handwritten signature in black ink, appearing to read 'A. Vortman', with a long horizontal flourish extending to the right.



FORM HDR 1449 (Based on Form PTO-1449)

**PATENT AND TRADEMARK OFFICE  
INFORMATION DISCLOSURE CITATION**

(Use several sheets if necessary)

Sheet 1 of 1

ATTORNEY DOCKET NO.	SERIAL NO.
0275L-000453	09/873,468
APPLICANT	
Black & Decker Company	
FILING DATE	GROUP
06/04/2001	--

**U.S. PATENT DOCUMENTS**

Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
1.	<i>AV</i>	5,924,393	07/20/1999	Kikuchi		
2.		US 6,181,019 B1	01/30/2001	Frank		
3.		5,965,949	10/12/1999	Fukuda et al.		
4.		5,697,249	12/16/1997	Miguchi		
5.		4,729,353	03/08/1988	Streng		
6.		4,173,951	11/13/1979	Ishihara		
7.		3,194,525	07/13/1965	Webb		
8.		2,361,768	10/31/1944	Heintz		
9.		2,937,832	05/24/1960	Treiber		

**FOREIGN PATENT DOCUMENTS**

Ref. Desig.	Examiner's Initials	Document Number	Date	Country	Class/ Subclass	Translation Yes	No
1.							

**OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, etc.)**

Ref. Desig.	Examiner's Initials	
1.		

Examiner:

*A. Valer*

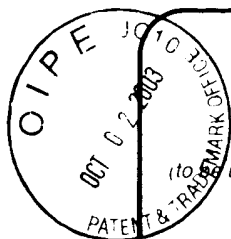
Date Considered:

*03/20/03*

EXAMINER: Please initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Please type a plus sign (+) inside this box → ☐

HDP/SB/21 based on PTO/SB/21 (08-00)



# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/873,468
Filing Date	June 4, 2001
First Named Inventor	Buck et al.
Group Art Unit	2835
Examiner Name	Vortman
Attorney Docket Number	0275L-000453

Total Number of Pages in This Submission

## ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) ____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <b>Appendix for Appeal Brief, Return Receipt Postcard</b>
--	--	---

Remarks

The Commissioner is hereby authorized to charge any additional fees that may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 02-2548. A duplicate copy of this sheet is enclosed.

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Harness, Dickey & Pierce, P.L.C.	Attorney Name	Thomas J. Krul	Reg. No.	46,842
Signature					
Date	September 26, 2003				

## CERTIFICATE OF MAILING/TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date indicated below.

Typed or printed name	Thomas J. Krul		
Signature		Date	September 26, 2003

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**FEE TRANSMITTAL  
for FY 2003**

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) 320**Complete if Known**

Application Number	09/873,468
Filing Date	June 4, 2001
First Named Inventor	Buck et al
Examiner Name	Vortman
Group / Art Unit	2835
Attorney Docket No	0275L-000453

**METHOD OF PAYMENT (check all that apply)**
☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None
☒ Deposit Account:Deposit  
Account  
Number

02-2548

Deposit  
Account  
Name

Black &amp; Decker (U.S.) Inc.

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments  
☒ Charge any additional fee(s) during the pendency of this application  
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account
**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	750	2001	375	Utility filing fee	
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
<b>SUBTOTAL (1)</b>					<b>(\$)</b> 0

**2. EXTRA CLAIM FEES**

Total Claims	-20 **	=	0	X	Fee from below	=	0	Fee Paid
Independent Claims	-3 **	=	0	X		=	0	
Multiple Dependent		X		=	0			

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	84	2201	42	Independent claims in excess of 3
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

**SUBTOTAL (2)** (\$) 0

\*\*or number previously paid, if greater. For Reissues, see above

**FEE CALCULATION (continued)****3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	320
1403	280	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify): \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

**SUBTOTAL (3)**

(\$)

**SUBMITTED BY****Complete (if applicable)**

Name (Print/Type)	Thomas J. Krul	Registration No. Attorney/Agent	46,842	Telephone	248-641-1600
Signature				Date	SEP 26, 2003

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